

PREFACE

Exempt Organizations (EO) is dedicated to fulfilling the IRS mission to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness. Customer Education & Outreach (CE&O) works closely with Exempt Organizations staff to accomplish this by:

- Developing tailored education programs for customer categories
- Coordinating the development, revision and design of forms, publications and other non-speaker outreach activities
- Making standardized educational materials available for outreach efforts
- Establishing a way for customers to be heard

This workshop and our materials are part of a customized program for representatives of small and medium-sized exempt organizations. We hope that this text helps you become more familiar with tax laws governing exempt organizations and understand how compliance with these laws will strengthen the organization(s) you represent.

The material in this book is for educational use only and may not be cited as precedent.

/s/ Lois G. Lerner

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Director, Exempt Organizations

CHAPTER 8

FORM 990

Overview

Filing one of the Form 990 series-returns is mandatory for most exempt organizations. Form 990-series returns are unique and useful for four key reasons:

- (1) Forms 990, 990-EZ, 990-N, and 990-PF are information returns, not tax returns. Tax-exempt organizations, by definition, do not pay income taxes. The primary reason why such organizations file a return is to provide information on their programs and activities. The IRS uses this information to verify the organization is operating in accordance with its stated tax-exempt purpose and not violating the rules and regulations governing tax-exempt status.
 - (2) Tax-exempt organizations are required to make their returns widely available for public inspection. This means organizations must allow the public to inspect the Forms 990, 990-EZ, 990-N, 990-PF, and 990-T they have filed with the IRS for their three most recent tax years. Exempt organizations are also required to provide copies of these returns when requested or make them available on the Internet.
 - (3) Exempt organization returns are multi-jurisdictional forms, with nearly 40 states requiring exempt organizations to file some or all parts of a Form 990-series return to satisfy the states' filing requirements.
 - (4) In addition to ensuring that an organization is in compliance with state and federal regulations, these information returns promote transparency and accountability, which strengthens the relationship that an exempt organization has with its stakeholders and funders.
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FORM 990, Continued

What's in this Chapter - Discussing Details of Form 990

This chapter discusses Form 990, *Return of Organization Exempt From Income Tax*, Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, Form 990-N (e-Postcard), as well as Schedules A, B, D, M, and O of the Form 990, which are the most commonly filed schedules. This chapter also explains important sections of the form and provides several resources to aid in successful completion of Form 990. For organizations with limited staff and resources or organizations that are new to the information-return process, a summary of the IRS toolkit, publications, and resources is included. Detailed information about all schedules on the Form 990 can be found in the Form 990 Instructions. A summary of filing requirements for the Form 990 can also be found in Publication 4839, *Annual Form 990 Filing Requirements for Tax-Exempt Organizations*. See Exhibit E on page 8-29.

Form 990-T, *Exempt Organizations Business Income Tax Return*, was discussed in Chapter 4. Discussion of Form 990-PF, *Return of Private Foundation*, is beyond the scope of this text.

Who Must File Form 990, Form 990EZ, or Form 990-N

Most organizations exempt from federal income tax under section 501(a) must file an annual information return (Forms 990, 990-EZ, or Form 990-N). The form you file depends on your organization's gross receipts for the tax year.

The following organizations are **not** required to file any of the Form 990-series returns for a given tax year:

- Churches and related organizations
 - State institutions whose income is excluded from gross income under Code section 115 and certain other government-affiliated organizations
 - Organizations included in a group return for that tax year
-

FORM 990, Continued

**Determining
the (2009)
\$25,000 Gross
Receipt
Threshold**

An organization's annual gross receipts do not exceed \$25,000 if the organization is:

- Up to a year old and has received \$37,500 or less during its first year either in donations or pledges
 - Between 1 and 3 years old and averaged \$30,000 or less in gross receipts in each of its first 2 tax years
 - Three years or older and averaged \$25,000 or less in gross receipts for the immediately preceding 3 tax years (including the year for which the return would be filed)
-

**Determining
the (2010)
\$50,000 Gross
Receipt
Threshold**

An organization's annual gross receipts do not exceed \$50,000 if the organization is:

- A year old and has received \$75,000 or less in donations or pledges
 - Between 1 and 3 years old and averaged \$60,000 or less in gross receipts in each of its first 2 tax years
 - Three years old or more and averaged \$50,000 or less in gross receipts for the preceding 3 tax years (including the year for which the return would be filed)
-

What to File

Exempt organizations are required to file a Form 990 – if its gross receipts and total assets are above certain limits – or a Form 990-EZ or Form 990-N.

Gross receipts are the amount an organization received from all sources without reduction for any costs or expenses.

Total assets are the amount reported by the organization on its balance sheet as of the end of the filing year, without reduction for liabilities.

Tax year is the annual accounting period for which the Form 990 is being filed, whether the calendar year ending December 31 or a fiscal year ending on the last day of any other month.

FORM 990, Continued

Thresholds for Filing

The specific filing thresholds for tax years 2009 and 2010 are set forth below. These thresholds were intended to facilitate the transition into the permanent receipts and assets thresholds which took effect for tax year 2010.

For tax year 2009, an organization must file Form 990 (e.g., it may not file Form 990-EZ or Form 990-N) if it has annual gross receipts of \$500,000 or more for the tax year or total assets of \$1.25 million or more at the tax year's end. An organization with annual gross receipts of less than \$500,000 and total assets less than \$1.25 million for the tax year may file Form 990-EZ instead of Form 990.

For tax years 2010 and beyond, an organization must file Form 990 (e.g., it may not file Form 990-EZ or Form 990-N) if it has annual gross receipts of \$200,000 or more for the tax year or total assets of \$500,000 or more at the tax year's end. An organization with annual gross receipts of less than \$200,000 and total assets less than \$500,000 for the tax year may file Form 990-EZ instead of Form 990.

Form 990-EZ

Form 990-EZ is a shorter and simpler version of Form 990 that can be used by many smaller organizations in place of Form 990.

Form 990-N

Organizations that elect not to file Form 990 or Form 990-EZ because their annual gross receipts are normally \$25,000 or less for tax year 2009 must file Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required to File Form 990 or 990-EZ*.

Beginning in tax year 2010, an organization with annual gross receipts that are normally \$50,000 or less may file Form 990-N instead of filing Form 990 or Form 990-EZ.

FORM 990, Continued

Form 990-N, continued

Filing is very simple and requires no specialized computer equipment or software. All you need to do is provide some basic information:

- Your employer identification number (EIN)
 - Tax year
 - Legal name and mailing address
 - Any other names the organization uses
 - Name and address of a principal officer
 - Website address, if the organization has one
 - Confirmation that the organization's annual gross receipts are normally at or below the threshold (\$25,000 for 2009; \$50,000 for 2010)
 - If applicable, a statement that the organization is going out of business
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E-filing Requirements

Organizations with \$10 million or more in total assets that file at least 250 returns during the calendar year (including income, excise, employment tax, and information returns) are required to file Form 990 electronically. For more information, visit www.irs.gov/efile and click on "Charities & Non-Profits."

When to File

Organizations that are required to file a Form 990-series return must file Form 990, Form 990-EZ, or Form 990-N by the 15th day of the fifth month after their accounting period ends. For example, May 15 would be the due date for an organization with a December 31 year-end.

Extension of Time to File

Use Form 8868, *Application for Extension of Time to File an Exempt Organization Return*, to request an automatic 3-month extension of time to file Form 990 or Form 990-EZ and submit it on or before the original due date. Organizations can request a second 3-month extension by filing another Form 8868 before the initial extension expires, but must show reasonable cause for needing additional time. The IRS will not grant filing extensions that total more than 6 months for a given tax year. There is no extension for Form 990-N.

FORM 990, Continued

Penalties for Late Filing or Failure to File 990 or 990-EZ Returns

Against the Organization: If an organization's gross receipts are \$1 million or less, and if it is required to file Form 990 or Form 990-EZ and does not file on time, it may be charged a penalty of \$20 a day, up to the lesser of \$10,000 or five percent of its gross receipts for the year, unless the organization can show that the late filing was due to reasonable cause. Organizations with annual gross receipts over \$1 million are subject to a penalty of \$100 per day for each day failure continues, with a maximum penalty with respect to any one return of \$50,000. The penalty begins on the due date for filing the Form 990. There is no late filing penalty for Form 990-N.

These penalties may also be charged if the organization files an incomplete or inaccurate return. Organizations that are required to file electronically but file a paper return instead generally are deemed to have failed to file the return.

Beware! An organization that fails to file Form 990, Form 990-EZ, Form 990-PF, or Form 990-N for three consecutive years will have its tax-exempt status automatically revoked as of the filing due date for the third return. Loss of exempt status may mean that an organization will need to pay taxes, file income tax returns, and its contributors will not be able to deduct their donations.

The organization must also apply (or reapply) for tax-exempt status reinstatement by filing Form 1023 or 1024 and pay a user fee to have its tax-exempt status reinstated.

Against Responsible Person(s): If the organization does not file a complete return or does not furnish correct information, the IRS will send the organization a letter that includes a fixed time to fulfill these requirements. After this period expires, the person failing to comply will be charged a penalty of \$10 a day unless he or she shows that failure to comply was due to reasonable cause. If more than one person is responsible, they are jointly and individually liable for the penalty. The maximum penalty on all persons for failures with respect to any one return shall not exceed \$5,000.

There are also penalties, fines, and/or imprisonment for willfully not filing returns and for filing fraudulent returns and statements.

FORM 990, Continued

**Penalties for
Late Filing or
Failure to File
990 or 990-EZ
Returns**
(continued)

To avoid penalties, an organization must do the following:

- Complete all applicable parts, schedules, and line items
 - Unless instructed to skip a line, answer each question on the return
 - Make an entry (including a zero when appropriate) on all lines requiring an amount or other information to be reported
 - Provide required explanations as instructed
 - Sign the return
 - File by the deadline
-

**Form 990
Disclosure**

The law requires that you make available a copy of your filed Form 990 and all attachments and schedules to anyone who requests it – except certain portions of Schedule B, *Schedule of Contributors*, for certain organizations. The IRS is also required to make your return available on request.

Chapter 10 of this book goes into more disclosure detail.

**Understanding
Form 990**

The following sections explain some of the information requested on key parts of Form 990 and are intended to help preparers avoid common errors. Because all 990-EZ items are also requested on Form 990, a separate discussion of Form 990-EZ is not included here.

FORM 990, Continued

Form 990 Instructions

The Form 990 Instructions provide specific explanations for each line item of the form and for all of the schedules. In addition, they contain the following items to help organizations successfully complete their information returns:

- **Sequencing List** - Provides step-by-step guidelines on a logical route through the form
- **Glossary** - Defines important terms included on the Form 990
- **Appendices** - Clarifies specialized topics and improves technical understanding of specific filing requirements
- **Compensation Table** - Explains locations on Form 990 for reporting various types of compensation
- **Checklist of Required Schedules** - Shows at a glance whether the organization has engaged in activities that require it to complete and file certain schedules

Overview

Because the answers to some of the items in the earlier parts of the Form 990 depend on information gathered in the later parts, preparers cannot move in a strict order from the first page to the last but will have to skip around. The remainder of this chapter will address the preparer of the return and will provide step-by-step instructions on Form 990 preparation basics.

It is strongly advised that readers have a copy of the Form 990 available to refer to while reviewing this chapter.

FORM 990, Continued

Form 990 Walkthrough - Steps to Follow

A 501(c)(3) public charity should first complete Schedule A to ensure that it continues to qualify as a public charity prior to completing the rest of Form 990. If it fails to qualify as a public charity, then it must file Form 990-PF rather than Form 990. (See the specific instructions for Schedule A later in this chapter.)

Sequencing List--Walkthrough in a Nutshell

- (1) Start with the Heading on page 1; complete items A through F and H(a) through M, skipping item G.
- (2) See Schedule R instructions and determine the organization's related organizations required to be listed in Schedule R.
- (3) Determine the organization's officers, directors, trustees, key employees, and five highest compensated employees required to be listed in Form 990, Part VII, Section A.
- (4) Complete Parts VIII, IX, and X.
- (5) Go back to the heading on page one and complete item G.
- (6) Complete Parts III, V, VII, XI, and XII.
- (7) Read the instructions to Schedule L and complete Schedule L, *Transactions with Interested Persons*, if required.
- (8) Complete Part VI.
- (9) Complete Parts I and IV.
- (10) Complete Schedule O and any other schedules that you were told to complete while answering the questions in Part IV of the core form. Remember, every "Yes" answer in Part IV means you have to fill out the corresponding schedule or part of a schedule.
- (11) Finally, go back to complete Part II, *Signature Block*.

Step One: The Heading (Form 990 p.1)

This section is where you enter the basic information identifying the filing organization: its name, address, EIN, telephone number, website address, etc.

For name of organization, enter the organization's legal name. If the organization does business under a different name, enter that name on the next line. Skip item G until Part VIII of the core form has been completed.

FORM 990, Continued

Step Two: Related Organizations (Schedule R)

An organization can be related because it controls or is controlled by the filing organization or by the same persons that control the filing organization. It can also be related through a 509(a)(3) supporting/supported organization relationship. A related organization may be an exempt organization, a taxable corporation, partnership or trust, or a disregarded entity. Related organizations are further defined in the glossary and the Schedule R instructions.

Step Three: Officers, Directors, Trustees, Key Employees, Five Highest Compensated Employees

Officers manage the organization's daily operations and are defined by state law and the organization's organizing document and bylaws. They must include the organization's top management official and top financial official.

Directors and trustees are voting members of the organization's governing body. Key employees and highest compensated employees are people who are not officers, directors, or trustees, but who meet certain tests regarding high levels of compensation. Key employees also exercise a certain level of control or authority over the organization.

Officers, directors, trustees, key employees, and five highest compensated employees are further defined in the glossary and the Part VII instructions.

Step Four: Part VIII, Statement of Revenue (Form 990 p.9)

Part VIII, Statement of Revenue--Columns

- Column A (*Total Revenue*): Filers report their gross receipts for all sources of revenue.
- Column B (*Related or Exempt Function Revenue*): Filers report all revenue from activities related to the organization's exempt purpose as well as any revenue that is excludable from gross income other than by reason of IRC sections 512, 513, or 514. For example, interest on state and local bonds excluded from tax by section 103 is reported in column B.
- Column C (*Unrelated Business Revenue*): Filers report any revenue from an unrelated trade or business, whether or not regularly carried on.
- Column D: Filers report revenue excludable from unrelated business income by section 512, 513, or 514.

All filers must complete column A. All filers *except* section 527 political organizations must also complete columns B, C, and D.

FORM 990, Continued

Step Four:
Step Four:
Part VIII,
Statement of
Revenue
(Form 990 p.9)
(continued)

Clarification on select line items in Part VIII

Line 1. On lines 1a through 1f, report all amounts received as voluntary contributions, gifts, or grants. Voluntary contributions include any part of a payment for which the donor does not receive full retail value from the donee. Report *gross* amounts of contributions collected by fundraisers in the organization's name; do *not* report a net amount after expenses. You will report all expenses of raising contributions later in Parts VIII and IX. Report the fair market value of a non-cash contribution at the time of the donation.

The following are not considered contributions and should not be reported in any section of Line 1:

- Grants or fees from governmental units, foundations, or other exempt organizations that represent a payment for a service, the use of a facility, or a product that primarily benefits the payer
- That portion of amounts received from any fundraising solicitation that represents payment for goods or services
- Donations of services or the use of materials, equipment, or facilities
- Unreimbursed expenses of officers, employees, or volunteers

Line 1a. (Federated Campaigns). On line 1a, enter the amount of contributions received through solicitation campaigns conducted by federated fundraising agencies, such as a United Way organization.

Line 1b. (Membership Dues). On line 1b, enter membership dues that function as contributions, or dues paid primarily to support the organization rather than to receive goods or services in return. In determining whether an amount is a payment for goods and services, ignore insubstantial benefits such as free or discounted admission to the organization's facilities or events or preferred access to goods or services.

Line 1c. (Fundraising Events). On line 1c, enter the amount of contributions received from fundraising events.

FORM 990, Continued

Step Four:
Step Four:
Part VIII,
Statement of
Revenue
(Form 990 p.9)
(continued)

Line 1d. (Related Organizations). On line 1d, report amounts contributed by “related organizations,” including contributions received from a parent organization, a subordinate, or other organization with the same parent. Include only contributions made to enable the organization to provide a service to the general public. Do not include payments for services, facilities, or products that primarily benefit the payor.

Line 1e. (Government Grants). On line 1e, report grants from local, state, or federal government sources or foreign governments if the primary purpose of the grant is to enable the organization to provide a service for direct benefit of the public. Do not include grants that serve the direct and immediate needs of the governmental unit.

Line 1f. (Other Contributions). On line 1f, report all other contributions not reported already on lines 1a through 1e.

Line 1g. (Noncash Contributions). On line 1g, enter the amount of non-cash contributions that were included on lines 1a through 1f. Non-cash contributions are anything other than cash, checks, money orders, credit card charges, wire transfers, and other transfers and deposits to a cash account of the organization. More information about non-cash contributions is in the instructions to Schedule M, which the filer must complete if the amount on line 1g exceeds \$25,000.

Line 2. (Program Service Revenue). On lines 2a-2e, enter the five largest sources of program service revenue. On line 2f, enter the total program service revenue from sources not listed in lines 2a-2e. Program services are activities that further the organization’s exempt purposes.

If you enter an amount anywhere on lines 2a-2e, you must also enter a business code from *Appendix J, Business Activity Codes*, or the NAICS website referenced in the instructions

Line 6a. (Gross Rents). On line 6a, enter the amount of rental income received from investment property. Allocate revenue to real property or personal property. Do not report on line 6a rental income that is related to an exempt function; report such income on line 2 instead.

FORM 990, Continued

Step Four:
Step Four:
Part VIII,
Statement of
Revenue
(Form 990 p.9)
(continued)

Line 8a. (Gross Income from Fundraising Events). Income from fundraising events is reported on line 8. Fundraising events are events conducted for the sole or primary purpose of raising funds to finance the organization's exempt activities, and do not include events or activities that further an organization's exempt purposes. The latter are considered program services and revenue from such events is entered on line 2.

Typical fundraising events include charity balls, bazaars, and banquets, door-to-door sales of merchandise, concerts, carnivals, sporting events, and auctions.

Example: As part of a fundraising event, an organization sends a book to anyone who contributes at least \$40. The retail value of the book is \$16 and the wholesale cost of the book is \$8. A \$40 contribution would be recorded as follows:

- \$24 reported as a contribution on line 1c
- \$16 reported as gross income from fundraising events on line 8a
- \$8 reported as a direct expense on line 8b

Indirect fundraising expenses (such as advertising for a fundraising event) must be reported on the appropriate line in Part IX, column D, and not on line 8b.

Step Four
Part IX –
Statement of
Functional
Expenses
(Form 990 p.10)

Part IX, Statement of Functional Expenses

In completing Part IX, use the organization's normal accounting method. If the normal accounting method does not allocate expenses, use any reasonable method of allocation, but be sure the method you use is documented in your records. Also, do not report expenses reported with other revenue in Part VIII, such as rental expenses, direct fundraising, gaming expenses, or the cost of goods sold.

Column A: All filers are required to complete column A, Total expenses; however, only section 501(c)(3) and (c)(4) organizations are *required* to allocate expenses to columns B through D.

FORM 990, Continued

Step Four
Part IX –
Statement of
Functional
Expenses
(Form 990 p.10)
(continued)

Column B: Enter all program service expenses. Include lobbying expenses in column B if the lobbying is directly related to exempt purposes. Also include program service expenses for unrelated trade or business activities.

Column C: Report expenses that are attributable to the management and general operations of the organization. Also, record expenses for all lobbying that is not directly related to exempt purposes. Other items that should be reported in this column include expenses associated with:

- Board of directors meetings
- Committee and staff meetings that do not directly involve a program service or fundraising activity
- General legal services
- Accounting and auditing
- Liability insurance
- Human resources
- Management of investments

Column D: Enter expenses incurred in soliciting contributions, gifts, and grants. All expenses (except for direct expenses for fundraising events reported in Part VIII, line 8b), including allocable overhead costs, incurred in publicizing and conducting fundraising campaigns and events and soliciting grants from foundations or governmental units, should be reported as fundraising expenses.

Step Four:
Part X –
Balance Sheet
(Form 990 p.11)

Part X, Balance Sheet

The balance sheet of an exempt organization is similar to the balance sheet of a for-profit entity, with one major exception. For-profit entities maintain capital or equity accounts that trace partners' or shareholders' interests in the entity. This is generally irrelevant for 501(c)(3) organizations as inurement of net earnings is prohibited and private benefit must be insubstantial.

All organizations must complete Part X; a substitute balance sheet will not be accepted.

FORM 990, Continued

Step Four:
Part X –
Balance Sheet
(Form 990 p.11)
(continued)

In column A, enter the amounts from the previous year's column B. If the organization was not required to file a Form 990 the previous year, enter the amounts that the organization would have entered in column B had it been required to file the previous year. If the organization is in its first year of existence, enter zeros on lines 16, 26, 33, and 34 in column A. If the organization is making a final return, enter zeros on lines 16, 26, 33, and 34 in column B.

Step Five:
Item G

Go back to the heading on page 1 and complete item G, Gross receipts. The instructions tell you which lines of Part VIII to add to compute gross receipts.

Step Six:
Part III-
Statement of
Program
Service
Accomplish-
ments (Form
990 p.2)

The statement of program service accomplishments allows the organization to tell its story – to explain its mission, describe its programs and services, and trumpet its accomplishments. Organizations are encouraged to be expansive in describing program services. A staff person or administrator can create considerable goodwill for being open and candid about an organization's operations and activities.

A program service is a major activity, usually ongoing, that furthers the organization's mission.

Preparers are not limited to the spaces provided in Part III. Particularly discursive filers can also make use of Schedule O to continue their descriptions. Schedule O is essentially a blank page where organizations can include information not mentioned elsewhere.

Step Six:
Part V –
Statements
Regarding
Other IRS
Filings and Tax
Compliance
(Form 990 p.5)

The questions in Part V serve two purposes: First, they alert an organization they might have other reporting obligations and other forms to file besides Form 990. Second, they ask whether the organization is engaged in certain kinds of activities and, if so, whether it satisfied the tax law obligations that accompany such activities.

FORM 990, Continued

Step Six:
Part V –
Statements
Regarding
Other IRS
Filings and Tax
Compliance
(Form 990 p.5)
(continued)

The preparer should keep the following questions and corresponding facts in mind when completing this section:

Question: Was the organization a party to a prohibited tax shelter transaction and, if so, did it file Form 8886-T? (Line 5)

Fact: An organization that is a party to a prohibited tax shelter transaction is required to file Form 8886-T to disclose that it is a party to such transaction, and to identify any other party to the transaction that it knows of.

Question: If it is a section 501(c)(3) or other sponsoring organization maintaining a donor advised fund or a supporting organization, did the organization or the fund have excess business holdings? (Line 8)

Fact: Donor advised funds and certain supporting organizations are treated as private foundations for the purposes of the section 4943 excise tax on excess business holdings and, consequently, must indicate whether they had excess business holdings at any time during the year.

Question: Did the organization make any taxable distributions under section 4966? (Line 9a)

Fact: Any distribution from a donor advised fund to an individual – whether a grant, reimbursement, payment of compensation for services, or other distribution – is subject to an excise tax under section 4966. Sponsoring organizations and fund managers liable for the tax must file Form 4720.

Question: Did the organization make distributions to a donor, donor advisor, or related person under section 4967? (Line 9b)

Fact: If an organization makes a distribution from a donor advised fund on the advice of a donor, donor advisor, family member, or 35 percent controlled entity of any of the above persons, and the distribution directly or indirectly benefits one of such persons, section 4967 imposes a tax on the person upon whose advice the distribution was made, the beneficiary of the distribution, and a fund manager for knowingly agreeing to make the distribution. The persons liable for the section 4967 tax must file Form 4720 to pay the tax.

FORM 990, Continued

**Step Six:
Part VII –
Compensation
of Officers,
Directors,
Trustees, Key
Employees,
Highest
Compensated
Employees, and
Independent
Contractors
(Form 990 p.7)**

“Current” refers to any time during the tax year for which the return is being filed. For additional information, see definitions of officers, directors, trustees, key employees, and highest compensated employees listed in Step (3) of the Sequencing List, above.

Section A requires organizations to list the name and title of:

- Every current officer, director, and trustee of the organization, even those that received no compensation during the tax year.
- Current key employees - those persons, other than officers, directors, and trustees, who (a) had reportable compensation exceeding \$150,000 from the filing organization and related organizations for the calendar year ending with or within the organization’s tax year (the \$150,000 test); (b) had or shared organization-wide control or influence similar to that of an officer, director, or trustee, or managed or had authority or control over at least ten percent of the organization’s activities (the responsibility test); and (c) were within that group of the organization’s top 20 highest paid persons for the year who satisfied both the \$150,000 test and the responsibility test described in (a) and (b).
- The five highest compensated current employees, not including persons already identified as an officer, director, trustee, or key employee, and not including any employee who received \$100,000 or less of reportable compensation from the organization and any related organizations. To determine the five highest compensated employees, consider only the amount of compensation paid in the calendar year ending with or within the organization’s tax year.
- Any former officer, key employee, or highest compensated employee who received more than \$100,000 of reportable compensation in the calendar year ending with or within the organization’s tax year from the organization and any related organizations.
- Any former director or trustee who received, for services provided in that person’s former capacity as director or trustee, more than \$10,000 of reportable compensation in the calendar year ending with or within the organization’s tax year from the organization and any related organizations.

For purposes of Part VII, “former” refers only to individuals that the organization reported (or should have reported) in any of the above-mentioned categories in one or more of its information returns for the previous 5 years.

FORM 990, Continued

**Step Six:
Part VII –
Compensation
of Officers,
Directors,
Trustees, Key
Employees,
Highest
Compensated
Employees, and
Independent
Contractors
(Form 990 p.7)
(continued)**

For each person listed in section A, the organization must include his or her reportable compensation. The reportable compensation of officers and other employees is generally the amount reported in box 5 of Form W-2. The reportable compensation of directors and trustees is generally the amount reported in box 7 of Form 1099-MISC.

All organizations are required to report compensation for the calendar year ending with or within their fiscal year and should use amounts reported on Form W-2 or Form 1099-MISC for that calendar year. In addition, organizations must report an estimate of other compensation, including deferred compensation not currently reportable on Form W-2 or Form 1099-MISC and nontaxable benefits such as health benefits, retirement plan benefits, and other nontaxable fringe benefits, but excluding certain working condition and fringe benefits.

The instructions to Part VII include a table that explains whether to report and where to report items of compensation and benefits in Part VII, section A, and Schedule J.

Part VII, Section B requires organizations to list the five highest compensated independent contractors that received more than \$100,000 in compensation from the organization for services during the calendar year ending with or within the tax year, whether or not the organizations issue Forms 1099 to those contractors. Section B also requires descriptions of the services provided and listing of the amounts paid to each contractor. “Independent contractors” can be corporations or other entities as well as individuals who are not employees, and include management companies, lawyers, accountants, and professional fundraisers that provide services to the organization.

FORM 990, Continued

**Step Six:
Part XI -
Reconciliation
of Net Assets
(Form 990 p.11)**

Part XI, Reconciliation of Net Assets

Part XI is a new section added for the 2010 tax year that asks filers to reconcile their beginning-of-year and end-of-year net assets.

**Step Six:
Part XII -
Financial
Statements and
Reporting
(Form 990 p.11)**

Part XII, Financial Statements and Reporting

Part XII is short and straightforward. Its primary purpose is to capture the organization's financial oversight process. Specifically, it asks the organization to disclose the extent to which it used an independent accountant for compilation, review, or audit of its financial statements.

An organization with substantial assets or revenue should consider obtaining an audit of its financial statements by an independent auditor. It should also consider establishing an independent audit committee to select the independent auditor and review its performance.

**Step Seven:
Schedule L**

Schedule L, Transactions with Interested Persons

Read the instructions to Schedule L, *Transactions with Interested Persons*, and complete some or all parts of the schedule to the extent required.

Transactions reportable on Schedule L include:

- Excess benefit transactions involving a 501(c)(3) or 501(c)(4) organization and a disqualified person
 - Loans that any type of filing organization makes to, or receives from, an "interested person" (which includes a current and former directors, officers, trustees, key employees, and highest compensated employees)
 - Grants or similar economic assistance provided by an organization to any interested person
 - Direct and indirect business transactions between an organization and any interested person (which includes current and former officers, directors, trustees, key employees, their family members, and entities they own or control) during the tax year
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FORM 990, Continued

**Step Seven:
Schedule L
(continued)**

If any member of the organization's governing body was involved in a financial transaction that should be reported, complete Schedule L before you start on Part VI of the core form. At a minimum, you will need to know the number of governing body members involved in transactions reportable on Schedule L so you can answer line 1b of Part VI regarding independence of governing body members.

**Step Eight:
Part VI –
Governance,
Management
and Disclosure
Overview
(Form 990 p.6)**

The questions in Part VI reflect the IRS's interest in learning about the governance policies and practices of exempt organizations. The IRS believes an organization with an articulated mission, a knowledgeable and dedicated governing body and management team, and sound managerial and financial practices is best equipped to comply with the tax laws, safeguard its assets, and succeed in its mission.

Because Form 990 is one of the principal vehicles by which the IRS and the public learn about the organization and its activities, the governing body of the organization should consider reviewing the organization's Form 990 before it is filed.

Part VI is divided into three sections, which capture the organization's management structure, policies, and disclosure practices.

FORM 990, Continued

Step Eight:
Part VI –
Governance,
Management,
and Disclosure
Section A
(Form 990 p.6)

Section A concerns the governing body – the group of persons authorized under state law to exercise ultimate control of the organization. The governing body of a corporation or association is its board of directors; the governing body of a trust is its trustees. Directors are encouraged to actively oversee the management of their organization, stay informed about its activities and financial status, and avoid actions or situations that are incompatible with an obligation to act solely in the best interests of the organization.

Line 1 asks for the number of voting members on the governing body of the organization (e.g., director, trustee). It then asks how many voting members are independent. “Independent” means the director:

- Was not compensated as an officer or employee of the organization or of a related organization;
- Did not receive total compensation or other payments exceeding \$10,000 from the organization and related organizations as an independent contractor, other than reasonable compensation for services provided in his or her capacity as a director; and
- Was not involved (nor were any of the director’s family members involved) in a transaction with the organization or a related organization that is reportable on Schedule L (or would be reportable on Schedule L if filed by the related organization).

No matter the size, a governing board generally should not be dominated by individuals with family or business relationships. Independent board members are important because their presence increases the likelihood that decisions will be made in the best interests of the organization and the community it serves, rather than the best interests of the individuals on the board.

To summarize, a member is considered independent if he or she:

- Is not compensated as an employee/officer of the organization;
 - Has total compensation of \$10,000 or less as an independent contractor of the organization; and
 - Was not involved in a Schedule L-reportable transaction with the organization or a related organization.
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FORM 990, Continued

Step Eight:
Part VI –
Governance,
Management,
and Disclosure
Section A
(Form 990 p.6)
(continued)

Other questions in Section A inquire about business and family relationships between and among the organization’s officers, directors, trustees, and key employees, whether and what control is exercised over the organization by governing members, and whether the organization contemporaneously documented its board and committee meetings and actions.

An important part of governance is transparency, which includes public disclosure of internal fraud or criminal activity. *Line 5* asks if, during the reporting year, the organization became aware of a significant diversion of its assets, such as by fraud or embezzlement, whether such diversion occurred during the year or earlier. A diversion is considered material if the gross value of all diversions (not taking into account restitution, insurance, or similar recoveries) discovered during the organization’s tax year exceeds the lesser of:

- 5 percent of the organization’s gross receipts for its tax year,
- 5 percent of the organization’s total assets as of the end of its tax year, or
- \$250,000.

Step Eight:
Part VI –
Governance,
Management
and Disclosure
Section B
(Form 990 p.6)

The questions in Section B ask whether the organization has adopted certain governance policies or procedures, such as a conflicts of interest policy, a whistleblower policy, a document retention and destruction policy, a joint venture policy, and a process for determining executive compensation. While the adoption of such policies is not mandated, the IRS nevertheless encourages exempt organizations to consider the merits of implementing these or similar policies and procedures to promote compliance with federal tax-exempt law and to minimize the risk of non-compliance.

FORM 990, Continued

**Step Eight:
Part VI –
Governance,
Management
and Disclosure
Section C
(Form 990 p.6)**

Section C involves organizational disclosure. More specifically, it asks organizations to explain what information they make available to the public and how they make it available.

An exempt organization is required to make a copy of its exemption application (Form 1023 or 1024) and its three most recent Form 990-series returns available for public inspection during normal business hours at its principal office and at its regional or district offices, and to provide copies of such forms upon request or make them publicly available (e.g., on the organization's website).

Organizations are encouraged to establish procedures to ensure such forms are made available to the public upon request. Appendix D of the Instructions explains the public inspection requirements in more detail. Chapter 10 offers more information on disclosure.

**Step Nine:
Parts I and IV.
Part I –
Summary
(Form 990 p.1)**

Although the summary is located at the beginning of the form, it should be one of the last pieces of the core form that you complete because it requires you to provide key financial, governance, and operational information from other parts of the form as well as from the prior tax year.

Complete Part IV, *Checklist of Required Schedules*, to determine which schedules or parts of schedules you need to complete.

**Step Ten:
Schedules to
Complete**

Complete any schedules or parts of schedules you need to complete after answering the questions in Part IV.

**Step Eleven:
Part II,
Signature
(Form 990 p. 1)**

Complete Part II of Form 990, *Signature Block*.

FORM 990, Continued

Schedule A – Public Charity Status and Public Support

What? Schedule A collects information about an organization's public charity status and public support.

Who? If you are a section 501(c)(3) organization and you file a Form 990 or Form 990-EZ, you must also file a Schedule A. Non-501(c)(3) organizations should not file Schedule A.

How? Schedule A contains two separate support schedules:

- The support schedule in Part II is used to compute the public support of charities under sections 509(a)(1) and 170(b)(1)(A)(vi).
- The support schedule in Part III is used to compute the public support of charities under section 509(a)(2).

Both support schedules feature a 5-year testing period, which includes the current tax year.

In completing Schedule A, you must use the same accounting method you used to complete the core form (e.g., the method you checked in Part XII, line 1 of the core form, whether cash or accrual).

FORM 990, Continued

Schedule B – Schedule of Contributors

What? Schedule B provides information on certain contributors of contributions the organization reported on line 1 of Form 990, Part VIII or Form 990-EZ, Part I.

Who? All organizations must attach a completed Schedule B to their Form 990 or 990-EZ unless they certify that they do not meet the filing requirements of Schedule B by checking the “No” box on Form 990, Part IV, line 2 or Box H in the heading of Form 990-EZ.

An organization is required to file Schedule B if it is:

- A section 501(c)(3) organization that met the 33 $\frac{1}{3}$ percent support test under sections 509(a)(1) and 170(b)(1)(A)(vi) and received one or more contributions that exceeded the greater of \$5,000 or 2 percent of the amount on line 1h of Form 990, Part VIII from any one contributor;
- A section 501(c)(3) organization that did not meet the 33 $\frac{1}{3}$ percent support test under sections 509(a)(1) and 170(b)(1)(A)(vi) and received one or more contributions of \$5,000 or more from any one contributor;
- A section 501(c)(7), (8), or (10) organization that received during the tax year
 - a. contributions of any amount for use exclusively for religious, charitable, literary, or educational purposes, or for prevention of cruelty to children or animals, or
 - b. contributions of \$5,000 or more not exclusively for such purposes from any one contributor; or
- Any other organization that received, during the year, a contribution of \$5,000 or more from any one contributor.

How? Part I asks for the name and address of the contributor, the aggregate amount of the contribution, and the type of contribution. Non-cash contributions must be described, and a fair market value stated, in Part II.

Except for section 527 political organizations, an organization may elect not to disclose the names and addresses of contributors listed on Schedule B when making its Form 990 available for public inspection.

FORM 990, Continued

Contributor	“Contributor” includes individuals, fiduciaries, partnerships, corporations, associations, trusts, tax-exempt organizations, and government units.
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Schedule D – Supplemental Financial Statements	Schedule D is a collection of financial statements to supplement the financial reporting on Part X of the core form, including reporting of donor advised funds, conservation easements, escrow accounts, endowment funds, and art and museum collections. Other information on Schedule D had previously been solicited as statements whose layouts were left largely to the discretion of each filer. Schedule D places these statements in a single schedule and gives each a consistent format.
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Schedule M – Non-Cash Contributions	<p>Schedule M is devoted exclusively to the reporting of non-cash contributions. It must be completed by any organization that reported more than \$25,000 of aggregate non-cash contributions during the year in Part VIII, line 1g of the core form, or that received contributions of art, historical treasures, or qualified conservation contributions. Schedule M requires reporting of all non-cash contributions, not just charitable contributions deductible under section 170 of the Code, made to any tax organizations required to file Schedule M, not just those organizations eligible to receive tax-deductible contributions.</p> <p>Note that Schedule M reports the <i>types</i> of non-cash contributions received during the year. There are 24 different types of property listed on separate lines in Part I of the schedule with four additional lines to add types that are not specifically listed in lines 1-24.</p>
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FORM 990, Continued

Resources – IRS.gov/EO

While the Form 990 instructions are an effective resource, there are many other resources available to help you ensure your form is properly completed. For a comprehensive list of Form 990 Resources and tools for exempt organizations, visit www.irs.gov/eo.

Case Study

A case study describing hypothetical organization “EO for Disaster Relief,” or EODR, is available at www.irs.gov/charities/article/0,,id=210368,00.html. It includes a series of seven short videos explaining how the facts translate to a completed Form 990. The fully completed 990 is also available to review.

EO Life Cycle

During its existence, a public charity has numerous interactions with the IRS – from filing an application for recognition of tax-exempt status, to filing the required annual information returns, to making changes in its mission and purpose. The IRS provides information, explanations, guides, forms and publications on all of these subjects – they are available at <http://www.irs.gov/charities/charitable/article/0,,id=122670,00.html>. This online illustration provides an easy-to-use way of linking to documents most charities will need as they proceed through the phases of their life cycle.

EO Update

To receive Exempt Organizations’ *EO Update*, a periodic newsletter with information for tax-exempt organizations and tax practitioners who represent them, go to www.irs.gov/eo and click on “EO Update” in the left navigation bar.

StayExempt Website

StayExempt.irs.gov is an educational micro-site for 501(c)(3) organizations. It offers a “Virtual Workshop covering the tax basics,” mini-courses on other topics of interest to exempt organizations, a large FAQs section, a glossary, and links to related forms and publications.

FORM 990, Continued

For More Information

- Form 990, *Return of Organization Exempt from Income Tax*
- Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*
- Form 990, Part IV, *Checklist of Required Schedules*
- Instructions for Form 990 or 990-EZ
- Schedule A, *Supplementary Information – Organizations Exempt Under Section 501(c)(3)*
- Schedule B, *Schedule of Contributors*
- Schedule D, *Supplemental Financial Statements*
- Schedule M, *Non-Cash Contributions*
- Schedule O, *Supplemental Information*
- Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required to File Form 990 or 990-EZ*
- Form 8868, *Application for Extension of Time to File an Exempt Organization Return*
- The following article provides more information on Form 990, Schedule A, and Schedule B: www.irs.gov/pub/irs-tege/eotopich03.pdf

Forms and Publications

You may order forms and publications by calling (800) 829-3676, or by downloading them from www.irs.gov/formspubs/.



Annual Form 990 Filing Requirements for Tax-Exempt Organizations

Forms 990, 990-EZ, 990-PF and 990-N (e-Postcard)

Tax-exempt organizations, other than churches and certain church-related organizations, are required to file annual information forms with the IRS. Forms include the Form 990, 990-EZ, 990-PF or the 990-N (e-Postcard). Filing the form is necessary to maintain an organization's tax-exempt status.

Which Form to File

The size and type of tax-exempt organization determines [which annual information form](#) the organization must file.

Smaller tax-exempt organizations—those with annual gross receipts of \$50,000 or less (\$25,000 or less in tax year 2009)—may file the Form 990-N (e-Postcard). This notice, which must be electronically filed, asks for only a few basic pieces of information: the organization's taxpayer identification number, its tax period, legal name and mailing address, any other names used, an Internet address if one exists, the name and address of a principal officer and a statement confirming that the organization's annual gross receipts are normally \$50,000 or less (\$25,000 or less for tax year 2009).

These organizations also have the option of using Form 990-EZ or 990 if they prefer, as long as they complete the entire form.

Larger tax-exempt organizations file either the Form 990 or 990-EZ, depending on their annual gross receipts and total assets. Most supporting organizations cannot file Form 990-N.

For the 2009 tax year (filed in 2010 or 2011)

- Organizations with annual gross receipts less than \$500,000, and total assets less than \$1.25 million can file either Form 990-EZ or Form 990
- Organizations with annual gross receipts of \$500,000 or more or total assets of \$1.25 million or more must file Form 990.

For 2010 and later tax years

- Organizations with annual gross receipts less than \$200,000, and total assets less than \$500,000 can file either Form 990-EZ or Form 990.
- Organizations with gross receipts of \$200,000 or more or total assets of \$500,000 or more must file Form 990.

All private foundations must file a Form 990-PF, *Return of Private Foundation*.

When to File Form 990 Returns

Unlike personal income tax returns, the 990-series forms do not have a single due date. The returns are due by the 15th day of the fifth month after the close of an organization's tax year. For example, if an organization's tax year closes on December 31, its form is due by the following May 15.

Preserve Your Tax-Exempt Status

Filing required forms on time is critical. The tax-exempt status of an organization that does not file its required annual information form for three consecutive years will be AUTOMATICALLY REVOKED as of the due date of the third unfiled return. Revoked organizations must file Form 1120, *U.S. Corporation Income Tax Return*, or a Form 1041, *U.S. Income Tax Return for Estates and Trusts*, and may need to pay income taxes. To [reapply for exemption](#), submit Form 1023 or Form 1024 and pay the appropriate [application fee](#).

Although the three-year revocation rule applies only to the 990-series forms, now is a good time to make sure other IRS-related filings are up-to-date, including the organization's Form 941, *Employer's Quarterly Federal Tax Return*, and Form 990-T, *Exempt Organization Business Income Tax Return*. If an organization has tax liability issues, it may wish to enter into a closing agreement to resolve them.

More Information

www.irs.gov/eo – Charities/Non-Profit page

EO Update Newsletter – Sign up and stay informed of the latest IRS news for exempt organizations

StayExempt.irs.gov – Interactive web-based workshops and mini-courses for exempt organizations

Life Cycle – Explains how to establish and maintain an exempt organization. Select the "Life Cycle" link at www.irs.gov/eo

877-829-5500 – Toll-free Customer Account Services

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